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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,734	06/23/2003	Martin Zaech	H60-093 CON	9037
21706	7590	07/28/2005	EXAMINER	
NOTARO AND MICHALOS 100 DUTCH HILL ROAD SUITE 110 ORANGEBURG, NY 10962-2100			MACARTHUR, SYLVIA	
			ART UNIT	PAPER NUMBER
			1763	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,734

Applicant(s)

ZAECH ET AL.

Examiner

Sylvia R. MacArthur

Art Unit

1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 23 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/21/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 10-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,620,254. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present invention is broader than the patent. The patent contains more specific limitations for the planet system in claim 1, while the present invention ends the claims on limitations regarding the moon system. The claims of the patent encompass the claims of the present invention.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims are rejected under 35 U.S.C. 102(b) as being anticipated by Dort (US 3,598,083).

Art Unit: 1763

Dort teaches an apparatus for providing complex rotation about three axis for thin film coating, see abstract.

Regarding claim 10: Dort teaches a sun system (18) rotatable about a sun system axis (21) coupled to drive (motor 16), the sun system having a sun wheel;

a planet system (32) rotatably coupled to the sun system to rotate about the sun axis 21 and rotatable about a planet axis (33) and having a drive coupling for driving the planet system about the planet axis;

and at least one moon system (38) supported on the planet system and rotatable about the moon axis (35) and having a driving connection to the sun system.

said moon system having at least two moon wheels () staggered one upon the other along said moon axis (35) and mutually distant, each of said moon wheels (29) having a receiver for at least one workpiece, and wherein the driving connection of said moon system to said sun system, at least during operation, is established uninterruptedly.

Regarding claim 11: The system of Dort further teaches that the sun system is a forced driving connection.

Regarding claim 12: The system of Dort further teaches that the sun system is a toothing driving connection (spur gear teeth 41) see col. 4 lines 22-29 .

Claim Rejections - 35 USC § 103

Art Unit: 1763

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dort in view of Dietrich et al (US 5, 029,555).

The teachings of Dort were discussed above.

Regarding claims 13-17 Dort fails to teach a transfer configuration.

Dietrich et al teaches a wafer holder method and apparatus in a vacuum deposition system. Dietrich teaches a planet and moon system. See col. 6 lines 26-34.

The transfer configuration comprises gears 16, 20, and 21, See col.7 of Dietrich et al.

Regarding claim 18: Dort fails to teach at least one predetermined break point Dietrich et al teaches moon 14 rotating about axis 11. Coaxial to axis 11 is a first wheel gear 16 which is fixed directly onto base element 10. It is fixed by a stop (breaking point).

The motivation to incorporate the stop is to maintain a desired angular position. See col. 6 lines 60-68 of Dietrich et al

Regarding claim 19: Dort fails to teach a belt drive.

Figure 7 of Dietrich et al teaches a pulley system in col. 8 lines 35-45.


Art Unit: 1763

The motivation to modify the three axis rotation system of Dort to incorporate the teachings of Dietrich et al is that it allows for rotation of the wafer while keeping the wafer and the holder uniformly aligned with respect to each other.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sylvia R. MacArthur whose telephone number is 571-272-1438. The examiner can normally be reached on M-F during the core hours of 9 a.m. and 3 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on 571-272-1435. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sylvia R MacArthur
Patent Examiner
Art Unit 1763

July 25, 2005